

E-filed 6/27/2011

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

VIRGINIA C. RUPISAN,

Plaintiff,

v.

DOWNEY SAVINGS AND LOAN
ASSOCIATION, F.A.; DSL SERVICE
COMPANY; OCWEN LOAN SERVICING, LLC;
WESTERN PROGRESSIVE, LLC; and DOES 1
through 50, inclusive

Defendants.

Case Number 5:10-cv-5755-JF/HRL

ORDER¹ GRANTING MOTION TO
DISMISS

[Re: Docket Nos. 36, 39]

Plaintiff Virginia Rupisan commenced the instant action in the Santa Clara Superior Court, seeking to enjoin non-judicial foreclosure proceedings on her home. Defendants removed the case to this Court and then moved to dismiss all of the claims in Plaintiff's original complaint. That motion was granted, with leave to amend. The Court stated in its order granting the motion that "[a]ny amended pleading must address the deficiencies noted in Defendants' [motions to dismiss]." Order of March 17, 2011 at 2. With the exception of adding two claims

¹ This disposition is not designated for publication in the official reports.

1 that suffer from the same fundamental deficiencies as her previously asserted claims, Plaintiff's
2 amended complaint is virtually the same as her initial complaint. Defendants now move to
3 dismiss the amended complaint.

4 Plaintiff's amended complaint does not attempt to cure any of the deficiencies identified
5 in Defendants' motion to dismiss the initial complaint. In particular, it does not allege any facts
6 that would support tolling the applicable statutes of limitations for claims arising from the
7 origination of Plaintiff's loan on May 30, 2006.² In addition, Plaintiff's opposition to the instant
8 motions was untimely, exceeded the page limit, and did not address any of the legal arguments
9 raised by Defendants. Accordingly, the amended complaint will be dismissed, without leave to
10 amend. The Clerk shall enter judgment and close the file.

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12 IT IS SO ORDERED.

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14 DATED: June 27, 2011

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JEREMY FOGEL
United States District Judge

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² As was the case with Plaintiff's initial complaint, it appears that the amended complaint was prepared by someone other than Plaintiff, as Plaintiff herself states that she does not speak English. The Court is concerned that the individual who actually prepared Plaintiff's pleadings may be engaged in the unauthorized practice of law.

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10 VIRGINIA C. RUPISAN,

11 Plaintiff,

12 v.

13 DOWNEY SAVINGS AND LOAN
14 ASSOCIATION, F.A.; DSL SERVICE
15 COMPANY; OCWEN LOAN SERVICING, LLC;
16 WESTERN PROGRESSIVE, LLC; and DOES 1
17 through 50, inclusive

18 Defendants.

Case Number 5:10-cv-05755-JF (HRL)

CERTIFICATE OF SERVICE

19 I, the undersigned, hereby certify that I am an employee of the Office of the Clerk,
20 United States District Court, Northern District of California.

21 On Tuesday, June 28, 2011, I served a true and correct copy of the attached document on
22 each of the persons hereinafter listed by placing said copy in a postage paid envelope and
23 depositing said envelope in the United States mail, or by placing said envelope in the outgoing
24 mail delivery receptacle located in the Clerk's Office:

25 Virginia C. Rupisan
26 2461 Sherlock Drive
27 San Jose, CA 95121

28 DATED: 6/27/2011

For the Court
Richard W. Weiking, Clerk

By: _____/s/
Diana Munz
Courtroom Deputy Clerk